

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT of TEXAS  
SAN ANTONIO DIVISION**

**UNITED STATES of AMERICA,**

**v.**

**JESSE SALAZAR RAMIREZ,**

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**Criminal Case  
No. SA-02-CR-621(3)**

**ORDER**

On November 20, 2002, Jesse Salazar Ramirez was indicted by the grand jury on various drug conspiracy charges. The case was assigned to then District Judge Edward C. Prado. A jury trial was held and the Defendant was found guilty of various charges on February 24, 2004. On July 24, 2004, a Judgment was signed wherein he was sentenced to imprisonment.

On February 1, 2005, the Government filed a motion regarding forfeiture issues and the case was reassigned to District Judge Fred Biery. On January 25, 2006, Defendant's appeal to the Fifth Circuit was dismissed for want of prosecution. Since that time Defendant has filed various motions with this Court, which have been denied, and the Defendant has filed various appeals to the Fifth Circuit, which have been dismissed.

On May 6, 2011, Defendant filed a motion to recuse Chief United States District Judge Fred Biery (Docket Entry No. 687). Defendant argues that Chief Judge Biery has a "personal bias and prejudice towards Ramirez." Defendant alleges that in November 2002 an assistant U.S. Attorney told him that he was a member of an "unbeatable prosecutorial tag team that consisted" of the Drug Enforcement Agency, U.S. Attorney's Office, and all of the magistrate and district judges. Defendant complains that the judgment signed by then District Judge Prado was void. He also complains that Chief Judge Biery has not provided him relief from this alleged void judgment.

Defendant alleges that Chief Judge Biery has engaged in corrupt and criminal conduct.

He further alleges that on November 27, 2010 he sent a letter to the District Clerk's office. In that letter he complains that it took Chief Judge Biery twenty months to rule on one of his motions. He complains that the ruling was contrary to the facts and failed to comply with controlling case precedent. He insulted Chief Judge Biery and informed Chief Judge Biery to run as fast as he can "because hell is coming." He further stated that "Life is brief, death is everlasting."

In his motion to recuse filed May 6, 2011, Defendant alleges that Chief Judge Biery called prison officials and complained that the Defendant had threatened him and that as a result he has been placed on "mail restriction." He denies making any threats against Chief Judge Biery and alleges that Chief Judge Biery's alleged telephone call was retaliatory, discriminatory and racially motivated.

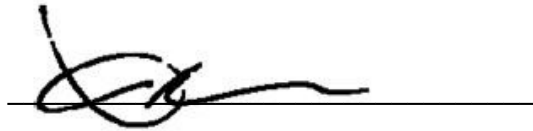
On May 17, 2011, Chief Judge Biery referred the motion to recuse to the undersigned judge.

There is, however, no matter or proceeding pending in this case, other than this motion to recuse. Defendant's last appeal to the Fifth Circuit was dismissed by that Court on April 8, 2010. Since that time Defendant has filed two motions (doc. nos. 661 and 671) and both those motions have been denied. Doc. nos. 667 and 683. Accordingly, there are no pending motions, no pending habeas, or pending section 1983 action from which Chief Judge Biery's recusal is sought.

Accordingly, defendant Ramirez's motion for recusal of Chief United States District Judge Fred Biery (Docket Entry No. 687) is **DISMISSED** for lack of jurisdiction. *United States v. Bowen*, 291 Fed. Appx. 644 (5th Cir. 2008) (district court lacks jurisdiction to consider motion to recuse when no other matter or proceeding was pending before the judge whose recusal was sought).

**It is so ORDERED.**

**SIGNED this 18th day of May, 2011.**

A handwritten signature in black ink, appearing to read 'Xavier Rodriguez', is written over a solid horizontal line.

**XAVIER RODRIGUEZ  
UNITED STATES DISTRICT JUDGE**